IN THE HIGH COURT OF BOMBAY AT GOA
*****

WRIT PETITION NO. 205 OF 2002

Shri Mangaldas Tulsidas
Kondvilkar, major, married,
r/o Miramar-Goa, presently
working as Upper Division
Clerk, office of Marine
Secretary, Chapora. ... Petitioner

Versus

1. State of Goa, through
its Chief Secretary,
having office at
Secretariat, Panaji,
Goa,

2. Captain of Ports, Govern-
ment of Goa, D. B.
Bandodkar Marg, Panaji,
Goa, and

3. Smt. Hirabai V. Korgaokar,
alias Smt. Anuska Tendulkar,
Junior Steno, through
Captain of Ports, Panaji,
Goa. ... Respondents.

Shri D. P. Bhise, advocate for the petitioner.

Shri A.N.S. Nadkarni, Advocate General with Shri P. A. Kamat, Addl. Govt. Advocate for respondents no.1 and 2.

CORAM: P. V. KAKADE &
P. V. HARDAS, JJ.

DATE: 8th October, 2002.

ORAL JUDGMENT (Per P. V. Kakade, J.)

Heard learned counsel for the petitioner and the learned Advocate General for the respondents.

2. In this petition, the question raised is whether the action of respondent no.2 in not granting regularization with effect from the date of promotion on the post of U.D.C., is legal and justified in view of the

Notification issued under Article 309 of the Constitution of India, laying down the norms to compute a regular service for the purpose of promotion.

In this regard, it is apparent from the record that the petitioner has already preferred an appeal dated 19th February, 2002, with the competent authority, i.e. the Secretary, Inland Water Transport Department, which is the alternative remedy available to the petitioner. In view of this aspect, we hereby direct that the petitioner shall pursue the remedy of the said appeal pending before the said competent authority. In case the petitioner is required to make an amendment in the appeal petition, he would be at liberty to do so and the competent authority, after hearing both the sides, shall adjudicate the appeal on merits, within a period of three months from the date of this Order.

It is clarified that while reconsidering the appeal of the petitioner the decision communicated by the letter dated 17th May, 2002, shall not be taken into account and the appeal shall be heard afresh.

3. With this direction, the petition stands disposed of.

P. V., HARDAS, J. P. V. KAKADE, J.